

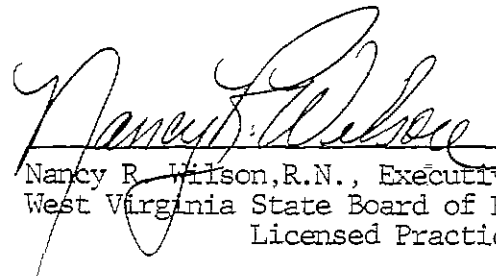
NOTICE OF FINAL FILING - LEGISLATIVE RULE

LEGISLATIVE RULE: Series II -- Policies Regulating Licensure  
of the Licensed Practical Nurse

Series III -- Legal Standards of Nursing Practice  
for the Licensed Practical Nurse

Series IV -- Fees for Services Rendered by the Board

The attached legislative rule is hereby final filed with the Secretary  
of State by West Virginia State Board of Examiners for Licensed Practical Nurses  
as authorized by SB 748 Section 64-2-30(7)(5)

  
Date 3-16-87

Nancy R. Wilson, R.N., Executive Secretary  
West Virginia State Board of Examiners for  
Licensed Practical Nurses

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WEST VIRGINIA LEGISLATIVE REGULATIONS  
WEST VIRGINIA STATE BOARD OF  
EXAMINERS FOR LICENSED PRACTICAL NURSES  
CHAPTER 30-7A  
SERIES II

FILED IN THE OFFICE OF  
THE SECRETARY OF STATE

THIS DATE July 30, 1986  
ADMINISTRATIVE LAW DIVISION

TITLE: Policies Regulating Licensure of the Licensed Practical Nurse

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Section 1. General

1.1 Scope - These Legislative Rules establish the Administrative Rules and Regulations for Policies Regulating Licensure of the Licensed Practical Nurse.

1.2 Authority and Related Code - WV Code 30-7A-1 et. Sec.

1.3 Filing Date \_\_\_\_\_

1.4 Effective Date \_\_\_\_\_

1.5 Repeal of Former Rule - This Legislative Rule repeals West Virginia Legislative Rule "West Virginia Board of Examiners for Licensed Practical Nurses (1981 amended), effective July 1, 1981.

Section 2. Qualifications for Licensure

2.1 Any person desiring to obtain a license to practice practical nursing shall submit to the Board satisfactory evidence that he or she:

(a) is of good moral character,

(b) has acquired at least a tenth grade education or

its equivalent,

(c) has completed a course of study in an accredited school for practical nursing as defined by the Board, in Series I, these Regulations, and holds a diploma therefrom and,

(d) has completed such other general education requirements as may be prescribed by the Board. Chapter 30, Article 7A, Section 2.

2.2 Any person who has served on active duty in the medical corps of any of the armed forces of the United States and who has successfully completed the course of instruction required to qualify him for rating as a medical specialist advanced, medical service technician, advanced hospital corpsman, medical service specialist or class "A" hospital corpsman, or other equivalent rating in his particular branch of the armed forces, and whose service in the armed forces was under honorable conditions, may submit to the West Virginia State Board of Examiners for Licensed Practical Nurses, a photostatic copy of the certificate issued to him certifying successful completion of such course of instruction, a photostatic copy of his discharge from the armed forces, a completed application for licensee-practical-nurse-licensure by examination and the prescribed fee.

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Series II, Section 2

If the certificate and discharge, as evidenced by the photostatic copies thereof, the application and prescribed fee are in order, and if the veteran meets all of the requirements of Article 7-A of Chapter 30, of the Code of West Virginia except the requirements therein specified requiring an applicant to have completed a course of study in an accredited school for practical nurses as defined by such Board, to hold a diploma therefrom and to have completed such other general educational requirements as may be prescribed by such Board, the veteran shall be permitted to take the same examination or examinations as are required...for applicants who do not apply for a license under the provisions of this article..if the veteran passes such examination or examinations he shall be licensed as a Licensed Practical Nurse, and such veteran shall thereafter be subject to all of the provisions of Article 7-A, Chapter 30 of the Code of West Virginia. If the veteran does not pass such examination or examinations, the provisions of said Article 7-A, Chapter 30 of the Code of West Virginia relating to re-examination..shall apply to such veteran the same as they apply to a person who does not apply for a license under the provisions of this Article 24, Chapter 30, Section 3.

Section 3.                   Application for License

3.1                   Applications must be obtained from and returned to the Board office with the fee required under Series IV, Section 2 of these regulations no less than forty-five (45) days prior to the date of the examination in order for the applicant to receive thirty (30) days notice of acceptance into the examination.

3.2                   Nursing services may be rendered by a graduate of an approved Practical Nursing Program working under qualified supervision during the period between completion of his or her education program and notification of the results of the first licensing examination following graduation. A temporary permit shall be issued to cover this period.

Section 4.                   Scores for Licensing

4.1                   Each practical nurse whose scores meet requirements set by the Board will receive official notification of such together with a certificate and license to practice as a licensed practical nurse in West Virginia for the current year.

4.2                   In the event the applicant does not make a passing score on the licensing examination he/she may apply to retake the examination the next time it is scheduled. He/she may not be employed in the practice of practical nursing, except as provided for in Section 3.2 of these regulations, until the examination has been successfully completed.

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Series II. Section 4

4.3 The applicant wishing to repeat the State-Board-Test-Pool Examination - National Council Licensure Examination for Practical Nurses due to failure of a previous examination must first notify the Board in Writing thirty (30) days in advance of the examination date. Fee for first repeat of the examination will be the same as for the first time candidates, the second repeat is free. The fee thereafter will be the same as for the first time candidates.

Section 5. License by Waiver

5.1 After the thirtieth day of June one thousand nine hundred sixty-eight (1968) no license by Waiver will be issued by the Board.

5.2 Any person who has obtained a license by Waiver and has completed extension courses equal in theory to those for the graduate practical nurse, as determined by the Board, may at any time thereafter take the examination prescribed by the Board for graduate practical nurses and obtain a license without the designation "Waiver" thereon Chapter 30, Article 7A, Section 6.

Section 6. Licensure by Endorsement

6.1 The Board shall issue such license to any applicant who has been duly licensed or registered or to a person entitled to perform similar services under a different title in another state, territory or foreign country, if the applicant meets other requirements for licensed practical nurses in this state. Chapter 30, Article 7A, Section 6.

6.2 An applicant for endorsement must submit a written request and the fee required in Series IV, Section 2, and may be employed for a maximum of six (6) months while awaiting West Virginia licensure. A letter of intent to endorse shall be issued and may be used in conjunction with a current license from another state or territory for employment purposes during the six (6) month period.

Section 7. Endorsement to Other States

The West Virginia Board of Examiners for Licensed Practical Nurses will endorse registrants to other states upon receipt of written request, payment of the fee required in Series IV, Section 2, and a request from another state Board of Nursing.

Section 8. Annual Renewal of License

8.1 The license of every person licensed by this Board shall expire on June 30 of each year.

~~8.2-----Renewal applications postmarked after June 30 will be considered delinquent and an additional fee will be required for renewal.~~

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8.2 Renewal applications postmarked after June 30 will be considered lapsed. An additional charge will be required to reinstate a lapsed license.

8.3 Any person practicing practical nursing on a delinquent or lapsed practical nurse license shall be considered an illegal practitioner and shall be subject to penalties as provided for in Chapter 30, Article 7A, Section 10 of the Code of West Virginia.

Section 9. Non-Practicing Status

A registrant who holds a current West Virginia license may request to be placed on the non-practicing list with the Board. While on the non-practicing list, the licensed practical nurse may not be employed as an LPN a Licensed Practical Nurse and is not subject to the payment of licensing fees. A registrant wishing to change to active status from the non-practicing list must request and complete a renewal application and submit this form with the current renewal fee. An active license will then be issued.

Section 10. Duplicate License

10.1 When a licensee requests a name or address change, the current license must be returned to the Board with the fee required under Series IV, Section 2 of these regulations.

10.2 In requesting a duplicate license due to the loss of a license, an affidavit verifying the loss must be completed and submitted to the Board with the fee required under Series IV, Section 2 of these regulations, prior to issuance of a duplicate license.

~~Section 11. Revocation, Suspension or Denial of License~~

~~The Board shall have the right to refuse to admit an applicant for the licensure examination for the herein after stated reasons, and also shall have the power to revoke or suspend any license to practice or to discipline a registrant upon satisfactory proof that the person is:~~

- ~~a. Guilty of fraud or deceit in procuring or attempting to procure a license.~~
- ~~b. Convicted of a felony.~~
- ~~c. Habitually intemperate or is addicted to the use of habit forming drugs.~~
- ~~d. Mentally incompetent.~~
- ~~e. Practicing or attempting to practice without a license or who wilfully or repeatedly violates any of the provisions of this article. (30-7A-10)~~

~~Charges made in relation to violation of the licensure law must be written and forwarded to the Board office to receive consideration.~~

Section 11. Disciplinary Proceedings; Grounds for Discipline

11.1 Disciplinary action may be taken by the Board, in accordance with the provisions of Chapter 29-A (Administrative Procedures Act) of the Code of West Virginia, upon satisfactory proof that an applicant for endorsement or examination, or a licensee:

11.1.1 Is guilty of fraud or deceit in procuring or attempting to procure a license to practice practical nursing which shall include,

11.1.1.1 Falsely represented facts on an application for licensure by examination or licensure by endorsement without examination or on an application for renewal of license; or

11.1.1.2 Had another person appear in his/her place or impersonated an applicant in any examination required for the issuance of a license.

11.1.2 Was convicted of a felony.

11.1.3 Is habitually intemperate or is addicted to the uses of habit-forming drugs.

11.1.4 Is mentally incompetent.

11.1.5 Is guilty of professional misconduct, which shall include:

11.1.5.1 Impersonated another licensed practitioner, or permitting another person to use his/her certificate for the purpose of nursing for compensation.

11.1.5.2 Provided false or incorrect information to the employer regarding the status of the license.

11.1.5.3 Practiced practical nursing in the State of West Virginia without a current west Virginia license, a valid temporary license, or a letter of intent to endorse, except as provided under Chapter 30, Article 7A, Section 9 of the Code of West Virginia.

11.1.5.4 Failed to report through the proper channels the incompetent, unethical, or illegal practice of any person who is providing health care.

11.1.5.5 Practiced practical nursing with gross incompetence or gross negligence on a particular occasion, or incompetence or negligence on more than one occasion.

11.1.5.6 Practiced practical nursing while the ability to practice is impaired by alcohol, drugs, physical disability, or mental disability.

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Chapter 30-7A  
Series II. Section 11

11.1.5.7 Has been found guilty of improper professional practice or professional misconduct by a duly authorized professional disciplinary agency of another state where the conduct upon which the finding was based would, if committed in this state, constitute professional misconduct under the laws of this state.

11.1.5.8 Permitted, aided, or abetted an unlicensed, uncertified, or unregistered person to perform activities requiring a license, certification, or registration.

11.1.5.9 Practiced practical nursing while the license is suspended, or willfully failing to register or notify the Board of any changes of name or mailing address.

11.1.5.10 Has been convicted of a felony or a misdemeanor relating to the practice of practical nursing in a court of competent jurisdiction.

11.1.5.11 Failed to follow established policies and procedures in the practice setting to safeguard patient care.

11.1.5.12 Failed to exercise technical competence in carrying out nursing care.

11.1.5.13 Misappropriated medications, supplies, or personal items of the patients or agency.

11.1.5.14 Falsified patients' records or intentionally charted incorrectly.

11.1.5.15 Practiced practical nursing beyond its authorized scope as defined in Series III of the Rules and Regulations of the Board.

11.1.5.16 Failure to comply with terms and conditions as may be imposed based on previous disciplinary action of the Board.

11.1.5.17 Continuing violations of any of the provisions of this Section 10, Article 7A, Chapter 30 of the Code of West Virginia.

Section 12. Disciplinary Proceedings: Disciplinary Action

A single penalty or a combination of penalties may be imposed by the Board upon any person found guilty of any of the grounds for discipline set forth under Section II of these regulations in the following manner:

12.1 For applicants for examination or endorsement.

12.1.1 Refusal to admit an applicant for the licensure examination, for a reasonable period of time, as determined by the Board.

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Series II. Section 12

12.1.2 Denial of licensure by endorsement for a reasonable period of time, as determined by the Board.

12.2 For licensees -

12.2.1 Revocation of a license:

The license may be revoked for a minimum of one year. Reinstatement of the license will be granted after revocation only after the licensee has petitioned the Board, at a formal hearing and provides proof that rehabilitation has occurred.

12.2.2 Suspension of a license:

The license may be suspended for a period of not less than 30 days, nor more than one year. The license is returned to the licensee after the period of suspension has expired, providing any conditions as set forth by the Board at the time of suspension have been met.

12.2.3 Voluntary surrender of a license:

The licensee voluntarily surrender the license and provide to the Board a statement concerning reasons for the action. The licensee may petition for a formal hearing for reinstatement of the license after six months. Proof must be furnished, at the hearing, that conditions leading to the voluntary surrender no longer exist.

12.2.4 Placement of a licensee on probation:

The licensee may be permitted to keep their license and continue to work. However, the licensee shall adhere to specific probationary conditions and shall be closely monitored by the Board for the duration of the probation.

12.2.5 Limited licensure:

A licensee may be permitted to keep the license and may work within specified guidelines.

12.2.5.1 The parameters of practice shall be defined in writing.

12.2.5.2 The specific limitation shall be noted on the license.

12.2.6 Issuance of a reprimand:

The Board may issue a reprimand in writing and retain a copy in the file of a licensee.

Board-of-Practical-Nursing-  
Legislative-Rules-  
Chapter-30-7A--  
Series-II---Section-12-

Section-12---Schedule-of-Fees-for-Services-Rendered-by-the-West-Virginia--  
State-Board-of-Examiners-for-Licensed-Practical-Nurses---

State-Board-Examination.....	\$-50.00-----
Endorsement-into-West-Virginia-----	\$-25.00-----
Renewal-Fee-----	\$-10.00-----
Reinstatement-Fee-(delinquents)-----	\$-20.00-----
Endorsement-out-of-West-Virginia-----	\$-25.00-----
Duplicate-License-----	\$-4.00-----
Change-of-Name-----	\$-4.00-----
Transcripts-----	\$-2.00-----
Transferable-Certificate-(Free-to-new-graduates)-----	\$-8.00-----
Lapsed-License-Fee-----	\$-25.00-----
Insufficient-Funds-Penalty-----	\$-6.00-----
Roster-----	\$-35.00-----
Copy-of-Law-----	\$-1.00-----
Rules-and-Regulations-----	\$-3.00-----
School-Survey-(New-School)-----	\$-150.00-----

Senate Bill No. 376

(By Senator Tucker)

[Introduced February 5, 1987; referred to the Committee on HEALTH AND HUMAN RESOURCES ; then to the Committee on the Judiciary.]

A BILL to amend article two, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section designated section thirty (seven-a)(five) relating to authorizing the West Virginia board of examiners for licensed practical nurses to promulgate legislative rules governing policies relating to licensure of the licensed practical nurse.

Be it enacted by the Legislature of West Virginia:

That article two, chapter sixty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty (seven-a)(five), to read as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-30(7a)(5). West Virginia board of examiners for licensed practical nurses.

1 The legislative rules filed in the state register on the  
2 thirtieth day of July, one thousand nine hundred eighty-six,  
3 modified by the West Virginia board of examiners for licensed  
4 practical nurses to meet the objections of the legislative rule-  
5 making review committee and refiled in the state register on the  
6 thirtieth day of September, one thousand nine hundred eighty-six,  
7 relating to the West Virginia board of examiners for licensed  
8 practical nurses (policies relating to licensure of the licensed  
9 practical nurse) are authorized.

10

11 NOTE: The purpose of this bill is to authorize the West  
12 Virginia Board of Examiners for Licensed Practical Nurses to  
13 promulgate legislative rules governing policies relating to  
14 licensure of the licensed practical nurse.

15

16 This section is new; therefore, strike-throughs and  
17 underscoring have been omitted.

H. B. 2608

(By Delegate Knight)

(Introduced February 4, 1987; referred to the  
Committee on Health and Human Resources  
then Judiciary)

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11 West Virginia, one thousand nine hundred thirty-one, as  
12 amended, by adding thereto a new section designated section  
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14 Virginia board of examiners for licensed practical nurses to  
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16 licensure of the licensed practical nurse.

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22 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE  
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